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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,015	10/21/2003	Jean Marc Berthaud	FR920020058US1	4790
	7590 04/21/200 & BERNSTEIN, P.L.0	EXAMINER		
1950 ROLAND CLARKE PLACE			RUSSELL, WANDA Z	
RESTON, VA 20191			ART UNIT	PAPER NUMBER
			2616	
			NOTIFICATION DATE	DELIVERY MODE
			04/21/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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gbpatent@gbpatent.com pto@gbpatent.com

	Application No.	Applicant(s)
	10/690,015	BERTHAUD ET AL.
Office Action Summary	Examiner	Art Unit
	WANDA Z. RUSSELL	2616
The MAILING DATE of this communication a Period for Reply	ppears on the cover sheet with the	correspondence address
A SHORTENED STATUTORY PERIOD FOR REF WHICHEVER IS LONGER, FROM THE MAILING - Extensions of time may be available under the provisions of 37 CFR after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory perion. - Failure to reply within the set or extended period for reply will, by stat Any reply received by the Office later than three months after the may earned patent term adjustment. See 37 CFR 1.704(b).	DATE OF THIS COMMUNICATION 1.136(a). In no event, however, may a reply be to will apply and will expire SIX (6) MONTHS from the cause the application to become ABANDON	N. imely filed n the mailing date of this communication. ED (35 U.S.C. § 133).
Status		
1) ☐ Responsive to communication(s) filed on 16 2a) ☐ This action is FINAL. 2b) ☐ TI 3) ☐ Since this application is in condition for allow closed in accordance with the practice under	nis action is non-final. vance except for formal matters, pr	
Disposition of Claims		
4) Claim(s) 1-4 and 7-12 is/are pending in the a 4a) Of the above claim(s) is/are withd 5) Claim(s) is/are allowed. 6) Claim(s) 1-4 and 7-12 is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and	rawn from consideration.	
Application Papers		
9) The specification is objected to by the Exami 10) The drawing(s) filed on is/are: a) a Applicant may not request that any objection to the Replacement drawing sheet(s) including the correct of the sheet	ccepted or b) objected to by the ne drawing(s) be held in abeyance. Seection is required if the drawing(s) is o	ee 37 CFR 1.85(a). bjected to. See 37 CFR 1.121(d).
Priority under 35 U.S.C. § 119		
12) Acknowledgment is made of a claim for foreignation All b) Some * c) None of: 1. Certified copies of the priority docume 2. Certified copies of the priority docume 3. Copies of the certified copies of the priority docume application from the International Bure * See the attached detailed Office action for a light	ents have been received. ents have been received in Applica riority documents have been receive eau (PCT Rule 17.2(a)).	tion No ved in this National Stage
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date	4) Interview Summar Paper No(s)/Mail [5) Notice of Informal 6) Other:	Date

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4, and 7-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Klinker et al. (U.S. Patent 7,133,365 B2).

For **claim 1**, Klinker et al. teach a method for routing (refer to col. 2, line 51) a datagram (data, refer to col. 2, line 51) in an IP (col. 6, lines 41-43) network, said method comprising the steps of:

receiving a datagram with a destination network address (col. 6, lines 41-43); identifying (selection, col. 6, line 41) a next hop router path (different path, refer to col. 6, line 45) en route to or associated with said destination network address (The path selection process relies on known source and destination IP addresses, refer to col. 6, lines 43-45); and

determining (determine, refer to col. 20, line 50) whether or not transmission of said datagram on a link to said next hop router would result in a bandwidth usage exceeding a bandwidth threshold (utilization alarm threshold, col. 20, line 31) associated with said next hop router (Fig. 12, and next-hop, refer to col. 20, line 26), and

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if not, updating (reconstruct, refer to col. 20, line 53) the bandwidth usage associated with said next hop router, and transmitting said datagram to said next hop router (to routers, refer to Fig. 12),

if so, selecting among other possible next hop routers en route to or associated with said destination address, another next hop router for which transmission of said datagram on a link to said other next hop router would not result in a bandwidth usage exceeding a bandwidth threshold associated with said other next hop router, updating the bandwidth usage associated with said other next hop router, and transmitting said datagram to said other next hop router (determine an alternate route based ... on a router's free bandwidth, refer to col. 21, lines 8-9).

For **claim 2**, Klinker et al. teach the method as set forth in claim 1, wherein the step of selecting comprises the steps of:

if, among said other possible next hop routers, there is no other next hop router for which the transmission of the datagram on the respective link would result in the bandwidth usage being less than the respective bandwidth threshold, choosing among said other possible next hop routers, another next hop router (determine an alternate route based ... on a router's free bandwidth, refer to col. 21, lines 8-9), updating the bandwidth threshold associated with said other (reconstruct ... threshold, refer to col. 20, line 21, lines 21-23, and line 31), chosen next hop router with a larger, predefined bandwidth threshold (in accordance with the flow policy, refer to col. 21, line 10. Policy implies bandwidth threshold. Also refer to threshold, col. 20, line 31); and transmitting the datagram to said other, chosen next hop router (to routers, refer to Fig. 12).

For **claim 3**, Klinker et al. teach the method as set forth in claim 1 wherein the step of determining, comprises the step of adding a bandwidth usage associated with said next hop router immediately before transmission of said datagram on said link to said next hop router to a bandwidth usage required for transmission of said datagram on said link to said next hop router (Usage collector 1215 accepts provider configuration information 1271 related to each NSP connection, ... next-hop ... bandwidth, refer to col. 20, lines 22-23, and line 26 & 28), and comparing a result of said adding step to the bandwidth threshold associated with said next hop router (This NSP configuration information details provider interfaces on the various routers, ... next-hop ... circuit bandwidth for calculating the utilization, refer to col. 20, lines 21-31).

For **claim 4**, Klinker et al. teach the method as set forth in claim 1 wherein the step of updating the bandwidth usage associated with the first said next hop router, comprises the step of updating in a table, the current bandwidth usage with the estimated bandwidth usage (byte counters, refer to col. 20, line 16 & lines 13-20).

For **claim 7**, Klinker et al. teach the method as set forth in claim 2, wherein the step of choosing among said other possible next hop routers, comprises the step of choosing among said other possible next hop routers, a next hop router according to a shortest path algorithm (shortest path, refer to col. 34, line 51).

For **claim 8**, Klinker et al. teach the method as set forth in claim 1, wherein a bandwidth usage of a link to said next hop router is based on other datagrams that have been transmitted on said link within a time period prior to a current time (FIG. 14 illustrates how the availability of "free" bandwidth is expressed for a given provider and

is measured by usage collector 214 of FIG. 2. Over any given time period from to through t1, current usage rate 1602 ... determined, refer to col. 26, lines 18-22).

For **claim 9 and 12**, they are means claims (refer to 200 in Fig. 2) corresponding to method claim 1 and 2, therefore they are rejected for the same reason above.

For **claim 10 and 11**, they are computer program product claims corresponding to method claim 1 and 2, therefore they are rejected for the same reason above.

Response to Arguments

- 3. Applicant's arguments, filed 1/16/2008 have been fully considered but they are not persuasive.
- 4. Applicant argues that Klinker does not include the feature of determining whether or not transmission of a datagram on a link to the next hop router would result in a bandwidth usage exceeding a bandwidth threshold associated with the next hop router.

In response, the Examiner respectfully disagrees.

Klinker teaches "Utilization information 264 includes <u>data</u> representing utilization trends for use" (refer to col. 20, lines 46-47).

5. Applicant argues that Klinker estimates whether an entire NSP's bandwidth has been exceeded, regardless of whether individual routers within the NSP have exceeded their bandwidth policy.

In response, the Examiner respectfully disagrees.

Klinker teaches "Usage collector 1215 accepts provider configuration information 1271 related to each NSP connection. This NSP configuration information 1271 details provider interfaces on the various routers" (refer to col. 20, lines 22-25, and Fig. 12).

6. Applicant argues that Klinker's routing table is not used to update current bandwidth usage with the estimated bandwidth usage.

In response, the Examiner respectfully disagrees.

Klinker teaches "Usage collector 1215 operates to collect usage information 1273 from network providers, such as byte counters (i.e., the amount of traffic transmitted to and received from network service providers)" (refer to col. 20, lines 14-17) and "... reconstruct" (refer to col. 20, line 21). Here the byte counters are a table used to update (reconstruct) current bandwidth (amount of traffic) usage.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WANDA Z. RUSSELL whose telephone number is

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(571)270-1796. The examiner can normally be reached on Monday-Thursday 9:00-6:00

EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on (571) 272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Seema S. Rao/ Supervisory Patent Examiner, Art Unit 2616

WZR/Wanda Z Russell/ Examiner, Art Unit 2616